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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,356	12/01/2003	Andrzej Barwicz	14540	8051
293	7590	05/04/2006	EXAMINER	
Ralph A. Dowell of DOWELL & DOWELL P.C. 2111 Eisenhower Ave Suite 406 Alexandria, VA 22314			EVANS, FANNIE L	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/724,356

Applicant(s)

BARWICZ ET AL.

Examiner

F. L. Evans

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 1,2 and 8-47 is/are allowed.
6) ☐ Claim(s) _____ is/are rejected.
7) ☒ Claim(s) 3-7 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 01 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 0804, 1105.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. § 119(a)-(d), which papers have been placed of record in the file.

The Information Disclosure Statements

The information disclosure statement filed on November 1, 2005 fails to comply with 37 CFR § 1.98(b)(2), which requires that each U.S. patent application publication listed in an information disclosure statement shall be identified by applicant, **patent application publication number**, and publication date. The last U.S. patent document listed on sheet 1 and all of the U.S. patent documents list on sheet 2 of the information disclosure statement filed on November 1, 2005 appear to be U.S. patent application publications. Because the complete patent application publication number of these documents has not been provided, the documents have not been considered. The other U.S. patent documents and the foreign patent documents cited in the information disclosure statement have been considered.

The documents cited in the information disclosure statement filed on August 12, 2004 have been considered.

Claim Objections

Claims 3-7 are objected to because “the advanced digital signal processing routines” bridging lines 2 and 3 of claim 3 and “said electrical spectral data” in line 3 of claim 3 lack antecedent basis. Claims 4-7 inherit the problem through dependency. Appropriate correction is required.

Allowable Subject Matter

Claims 1, 2 and 8-47 are allowed over the prior art of record.

Claims 3-7 would be allowable if rewritten to overcome the objections of the claims set forth in this Office action.

As to independent claim 1, the prior art of record, taken alone or in combination, fails to disclose

Art Unit: 2877

or render obvious an optical performance monitor for monitoring an optical signal and providing an estimate of a predetermined parameter x of that signal, the optical performance monitor comprising an auxiliary transducer to receive the optical signal and provide as an output a second data set representative of time-domain parameters of the signal and a processor to receive each of said data sets and to apply thereto digital signal processing routines to obtain estimates of the predetermined parameter, in combination with the rest of the limitations of the claim.

As to independent claim 14, the prior art of record, taken alone or in combination, fails to disclose or render obvious a method for monitoring a quality of data transmission of at least one optical channel, the method comprising the determining, obtaining and performing steps specified.

As to independent claim 26, the prior art of record, taken alone or in combination, fails to disclose or render obvious a method for monitoring a quality of data transmission of at least one optical channel, the method comprising the providing and determining steps specified.

As to independent claim 36, the prior art of record, taken alone or in combination, fails to disclose or render obvious a method for estimating a bit-error rate BER of data transmission on at least one optical channel comprising the steps of estimating from the quality of the optical signal a bit-error rate BER of data transmission, wherein the bit-error rate BER is estimated absent a summation of bit errors over a period of time sufficient to provide a statistically valid estimate of a bit-error rate BER, in combination with the rest of the limitations of the claim.

As to independent claim 44, the prior art of record, taken alone or in combination, fails to disclose or render obvious an optical performance monitor for monitoring an optical signal and providing an estimate of a predetermined parameter x of that signal, the optical performance monitor a processor to receive the data set, the processor applying thereto digital signal processing routines for signal reconstruction to obtain therefrom estimates of at least one of said predetermined parameters of power, wavelength or optical signal to noise ratio, in combination with the rest of the limitations of the claim.

Art Unit: 2877

Ex parte Quayle

This application is in condition for allowance except for the above noted formal matters.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Fax/Telephone Numbers

Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner whose telephone number is (571) 272-2414.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2800 ext 77. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


F. L. EVANS
PRIMARY EXAMINER
ART UNIT 2877

file
April 28, 2006